THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.26417 OF 2007

Date: 11.12.2007

Between:

Smt. Mathi Appala Raju and another

. . .Petitioners

AND

The Collector and District Magistrate,
East Godavari District, Kakinada and others

. . .Respondents

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.26417 OF 2007

ORDER:

This writ petition is filed for a writ of mandamus to declare proceedings dated 16.11.2007 issued by respondent No.1, whereby he rejected the objections filed by the petitioners, as illegal.

The petitioners are the owners of 70 cents of land, which is notified for acquisition under notification, dated 16.11.2007 issued under Section 4 (1) of the Land Acquisition Act, 1894 (for short 'the Act'). The petitioners received notice, dated 30.08.2007 issued under Section 5A of the Act, wherein they were called upon to submit their objections, if any, as to the proposed acquisition on or before 24.09.2007. It is further stated in the said notice that the objections, if any received will be enquired into on 01.10.2007 at 11.00 a.m. at the office of Sub-Collector, Rajahmundry. The petitioners submitted their objections within the stipulated time. By the impugned order, the said objections were rejected by respondent No.1.

Sri K.Chidambaram, learned counsel for the petitioners invited my attention to notice, dated 30.08.2007 in which, it is mentioned that enquiry into the objections will be held on 01.10.2007 at 11.00 a.m. at the office of Sub-Collector, Rajahmundry, while in the impugned order, it is stated that enquiry was conducted on 24.09.2007. The petitioners averred in the affidavit filed in support of the writ petition that on 01.10.2007, petitioner No.2 went to the office of respondent No.2 to substantiate the objections already filed by the petitioners and that the

office of respondent No.2 intimated that no enquiry would be held on that day.

From the above facts, I am convinced that having notified the date of enquiry as 01.10.2007, it would have been improbable for respondent No.2 to have held enquiry on 24.09.2007 itself. Therefore, I am of the view that respondent No.2 has not held enquiry and the petitioners are thus, denied a reasonable opportunity to put forth their objections as envisaged under Section 5A of the Act.

For the aforementioned reasons, order dated 16.11.2007 impugned in this writ petition is set aside. Respondent No.2 is directed to hold an enquiry under Section 5A of the Act by giving an opportunity of personal hearing to the petitioners before proceeding further with the proposed acquisition. Till completion of this process, the petitioners shall not be dispossessed.

The Writ Petition is accordingly allowed.

C.V.NAGARJUNA REDDY, J

11th DECEMBER, 2007

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